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RAYMOND J. KIMBALL

DOCKET FILE COPY ORIGINAL

February 1, 1995

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

RECEIVED  
FEB - 1 1995  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

RE: Rules Branch  
Land Mobile Branch and Microwave Division  
Private Radio Bureau  
Room 5202, Stop Code 1700A1  
Amendment of Part 90 of the Commission's  
Rules to Facilitate Future Development of  
SMR Systems in the 800 MHz Frequency Band  
PR Docket No. 93-144, RM-8177, RM-8030,  
RM-8029 and PP Docket No. 93-253

Dear Mr. Caton:

Enclosed herewith for filing on behalf of SMR WON are the original signature pages of the Declarations of William Wyatt and William Holesworth accompanying the "Comments of SMR WON" filed on January 5, 1995.

Also enclosed is an additional copy of this letter and enclosure to be receipt-stamped and returned to the undersigned.

Should additional information be necessary in connection with this matter, kindly communicate directly with the undersigned.

Sincerely,

*Raymond J. Kimball*  
Raymond J. Kimball

/rid  
Enclosures

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**DECLARATION OF WILLIAM WYATT**

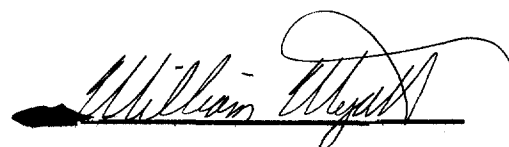
William Wyatt, President of Total Com, Inc., located at 2701 N. Van Buren, Enid, Oklahoma 73207, gives this declaration with attachment in support of the Comments of SMR Won in response to the Further Notice of Proposed Rulemaking in PR Docket No. 93-144, Released November 4, 1994.

Total Com, Inc. is an Oklahoma corporation that began operating on August 1, 1985 and currently employs 7 people. Our annual gross income in 1994 was \$550,000. Our business is the sale and service of radio communications equipment and services. We provide VHF and UHF radio systems, 800 MHz SMR service and antenna site rental. We currently operate 14 SMR sites in North and Western Oklahoma with 53 channels. The area we service is about 36,000 square miles with a population of about 500,000.

Since 1989, the SMR portion of our business has developed rapidly, 25% per year, to a point where we have about 400 customers using 800 mobile radio units. We began providing SMR service in rural Oklahoma years ahead of cellular. Today we use a large percentage of our spectrum to deliver service to the public than Cellular does. Approximately 90% of these units are interconnected to the PSTN and 10% are dispatch only. The average monthly invoice for interconnect service is \$40.00 for 300 minutes of service, and dispatch is \$10.00 per month.

We feel compelled to comment on this FNPRM because the future of our business is threatened. We are unable to add frequencies or new locations to serve our growing markets because of a spectrum shortage.

The Foregoing declaration is true and correct to the best of my knowledge and is given under penalty of perjury.

A handwritten signature in cursive script, appearing to read "William Wyatt", is written over a horizontal line.

William Wyatt

Dated: January 5, 1995

# DECLARATION OF WILLIAM HOLESWORTH

William Holesworth hereby declares as follows:

1. I am General Manager of Business Radio, Inc., (BRI), Kennewick, Washington. I am licensee of Stations WNPS555 and WNPS559, Benton County, Washington. I also manage Station WNDR605, Yakima County, Washington, licensed to BRI. In addition, I assist with technical interference issues and operations for SMR stations WNYQ310, Shohomish County, Wash., and WNUD533, Mission Ridge, Washington, licensed to AccuComm, Inc. I have been an owner and manager of SMR systems for over 30 years.

2. BRI is a member of the Northwest Wireless Network, a co-operative of independent SMR operators in Washington State, Oregon, Idaho, and Montana providing roaming service to customers using EF Johnson Motorola equipment, in competition with users of Motorola-based SMR operators in these states. BRI's business, and the business of Northwest Wireless Network, will be severely injured, and possibly destroyed, by the proposed merger of OneComm Corporation and Nextel Communications, Inc ("Nextel"), because we will be unable to compete effectively against the resulting heavy concentration in the SMR market.

3. On or about December 27, 1994, using the FCC database, obtained from Interactive Systems, Inc., Arlington, Virginia (the "ISI Database"), I began an analysis to determine the number of allocated licensed private radio channel frequencies in the band 851.0125 MHz through 865.9875 MHz (Channels 1-600) as defined in Section 90.613 of the FCC rules for the following states: Colorado, Georgia, Louisiana, New Jersey, Oklahoma, South Carolina and Utah (the "States"). These

include the 280 channels reserved for trunked SMR service (YX), and the "intercategory sharing" channels available when all SMR channels are "taken" in a particular area. See Sections 90.617 (d) and 90.621(e) (formerly 90.621(g)).

4. To perform my analysis, I utilized additional computer hardware and software, including Microsoft Access Version 2, a database program which allowed me to sort and analyze the data in the various search fields<sup>1/</sup> defined in the ISI Database.

5. Based on the information reflected in the ISI Database, I have determined that the number of allocated licensed channels reserved for trunked SMR service in the 800 MHz frequency for the States are as follows:<sup>2/</sup>

<u>State</u>	<u>No. of Channels</u>
Colorado	11,272
Georgia	5,322
Louisiana	2,405
New Jersey	1,775
Oklahoma	9,134
South Carolina	2,080
Utah	895

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<sup>1/</sup> Separate search fields include Licensee Name, Location (by geographic coordinates) whether the application is Pending or Granted, the date of grant, the date of filing, and frequency.

<sup>2/</sup> The ISI Database further reflects that the concentration of frequencies within these States increased dramatically in August, 1994, just days before the FCC imposed a freeze on the processing of further applications.

The ISI Database can be submitted on diskette upon request, assuming the necessary clearance is obtained from ISI.

6. Once I determined the number of allocated licensed channels for trunked SMR service in the 800 MHz frequency in the States, I began an additional analysis to determine the number of these frequencies that were owned or controlled by Nextel, or Nextel controlled entities.

7. The identification of an entity as a "Nextel controlled entity" was based primarily upon my own personal knowledge, and the personal knowledge of the following persons with whom I spoke directly:

John Peacock: owner/operator of Peacock Communications  
(West Memphis, Arkansas)

Bill Wyatt: owner/operator of Total Communications  
(Enid, Oklahoma)

Walter Callinghouse: owner/operator of Communications  
Center, Inc. (Covington, Louisiana)

Harold O'Dell: owner/operator of Leflore Communications,  
Inc. (Greenwood, Mississippi)

Dale Avery: owner/operator of Radio Service Co.  
(Blackfoot, Idaho)

Gene Stoker: owner/operator of Idaho Communications  
(Boise, Idaho)

8. In the limited instances that I was unable to confirm the affiliation, if any, of a license holder based on my own personal knowledge or the personal knowledge of the persons referenced in paragraph 7 above, I used the "Licensee" search field in the ISI Database to cross check the holder's "call sign" with the pending applications for modifications of "call signs" submitted by Nextel and Nextel controlled entities upon their acquisition of a controlling interest in any holder of an SMR

license. Where Nextel or a Nextel controlled entity had submitted an application to modify the call sign of any license holder in question, I included that license holder's channels among Nextel's owned or controlled holdings.

9. Based on the information obtained through the analysis discussed in paragraphs 7 and 8 above, when compared with the number of allocated licensed channel frequencies referenced above, I have determined that Nextel's ownership or control of the allocated license channels reserved for trunked SMR service in the 800 MHz frequency in the States, expressed in percentages, are as follows:

<u>State</u>	<u>% of Channels</u>
Colorado	95 (10,703) <sup>3/</sup>
Georgia	91.3 (4,833)
Louisiana	77.3 (1,860)
New Jersey	75.6 (1,343)
Oklahoma	94 (8,591)
South Carolina	75.8 (1,578)
Utah	67 (599)

A detailed breakdown of the number of frequencies owned or controlled by Nextel in these States is set forth in Appendix A, attached hereto.

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<sup>3/</sup> In addition, Nextel controls 4,753 of the 5,524 (86%) of the pending new channels, each of which is "senior" in priority.

The statements and analyses contained herein are true and correct to the best of my knowledge. This declaration is given under pains and penalties of perjury.

  
William Holesworth

Dated: January 5, 1995

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